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## IV#2312973

# COUNTY OF LOS ANGELES
# SHERIFF'S DEPARTMENT

## ADMINISTRATIVE
## INVESTIGATIVE SUMMARY

**DATE / TIME:** February 2, 2012 / 1147 hours

**LOCATION:** Metro Red Line Station
Hollywood Boulevard and Highland Avenue
Los Angeles, California 90028

**IAB #:** **IV2312973**

**SUBJECTS:** Paez, Anthony [redacted]
DEPUTY SHERIFF GENERALIST
OSS/GET

[redacted]
DEPUTY SHERIFF GENERALIST
COPS BUREAU

**ALLEGATION**

It is alleged that on February 2, 2012, Subject Paez and Subject [redacted] while assigned to Transit Services North Bureau, detained Mr. Shawn Nee at the entrance to the Hollywood and Highland Metro Red Line Passenger Station. Mr. Nee claims he was subjected to rough physical treatment, intense questioning and illegal search and seizure of his person and property. A civil claim was filed against the Los Angeles County Sheriff's Department by Mr. Nee. **Refer to Exhibit A.**

It is alleged that Subjects Paez and [redacted] potentially violated Manual of Policy and Procedures Sections, Obedience to Laws, Regulations and Orders, Section 3-01/030.10 MPP, False Information in Records, Section 3-01/100.35 MPP and Pat Down Searches, Section 3-01/110.30 MPP.

## INCIDENT SYNOPSIS

On February 2, 2012, Mr. Shawn Nee was photographing the area of Hollywood Boulevard and Highland Avenue. Mr. Nee stopped in front of the Metro Red Line Station entrance and began photographing the area where Subject Paez and Subject [redacted] were speaking with two female juveniles.

> **IAB NOTE:** The entrance to the Metro Red Line Station is street level and faces south onto Hollywood Boulevard. **See Exhibit B.**

Subject [redacted] requested that Mr. Nee not photograph him. Subject [redacted] made this request several times and Mr. Nee continued photographing him. Subject Paez also requested Mr. Nee to stop photographing and that it was illegal to photograph juveniles.

> **IAB NOTE:** Subject Paez and Subject [redacted] were approximately 10 feet away from Mr. Nee in front of the entrance to the Red Line Station entrance talking with two female juveniles.

Mr. Nee stated he had the right to photograph the area due to the area being available to the public. Again Subject Paez explained to Mr. Nee it was illegal to photograph juveniles.

> **IAB NOTE:** The females at the entrance of the Metro Station were unidentified.

Subject Paez and Subject [redacted] approached Mr. Nee and contacted him to ascertain his reasoning for photographing the entrance. Subject Paez asked Mr. Nee for his identification. Subject Paez said he smelled the odor of an alcoholic beverage and marijuana emitting from the breath and person of Mr. Nee. Again Subject Paez asked Mr. Nee for his identification and Mr. Nee refused saying, he did not have identification. Subject Paez continued advising Mr. Nee that it was illegal to videotape minors and that Mr. Nee needed to produce some form of identification. Mr. Nee challenged Subject Paez continuously stating it was not illegal to photograph public areas and he was not obligated to show his identification. Mr. Nee asked Subject Paez if he was being detained. Subject Paez advised Mr. Nee he was being detained and requested for Mr. Nee to place his camera bag on the ground. Subject Paez took hold of the camera bag and placed the camera bag on the ground and conducted a pat down search of Mr. Nee.

> **IAB NOTE:** The contact was recorded via a hidden video camera attached to Mr. Nee. **See Exhibit C.**

Subject Paez and Subject [redacted] escorted Mr. Nee to a patrol vehicle and placed him in the backseat in an attempt to identify him and ascertain his reasoning for photographing the entrance to the Metro Station.

> **IAB NOTE:** Due to heightened awareness of terrorist attacks on public transportation systems, deputies assigned to the Transit Services Bureau are encouraged to contact persons photographing or videotaping the Metro Rail System. **See Exhibit D.**

Subject Paez placed Mr. Nee in the rear seat of the radio car and continued his investigation. Mr. Nee gave Subject Paez his name and date of birth. Subject Paez conducted a California Driver's License Check via their MDT and did not receive a return with a valid identification. Subject Paez and Subject [redacted] attempted to retrieve a Blue Check Device in order to positively identify Mr. Nee, however, after approximately twenty minutes they did not receive a response from assisting units.

> **IAB NOTE:** The Blue Check Device is a mobile fingerprint device which identifies a person via fingerprint.

Subject Paez and Subject [redacted] determined Mr. Nee was not wanted nor was he intoxicated to the extent he could not care for himself and subsequently released Mr. Nee without incident.

> **IAB NOTE:** Street level video of the detention was not available due to the Metro System's surveillance camera video footage being retained for 90 days.

**This is a summary based on statements given during audio recorded interviews by the subjects and witnesses. For complete and detailed statements refer to the digital audio recorded files and the verbatim transcripts, which are included in this investigation.**

## COMPLAINANTS STATEMENT

The Complainant's statements were retrieved from the civil lawsuit which was filed against the Sheriff's Department. At the request of the Attorney for Los Angeles County the Complainant was not interviewed due to pending litigation. The Attorneys for Los Angeles County were attempting to conduct a deposition of the Complainant, however, due to scheduling conflicts were unable to complete the deposition prior to the completion of this investigation.

This complaint was brought to the attention of the Sheriff's Department through Social Media (You Tube). **See Exhibit C**.

> **IAB NOTE:** The complainant filed a civil lawsuit on March 23, 2012, several weeks after the incident was aired on You Tube. **See Exhibit A.**

In the lawsuit, Complainant Nee claims he was walking on Hollywood Boulevard photographing people on the street. Complainant Nee stated as he passed the Hollywood and Highland Metro Station he took a picture of two Sheriff's Deputies who were standing at the entrance and appeared to be talking with two teenage girls. The lawsuit states that when he photographed them the deputies yelled at him that no pictures were allowed. Complainant Nee told the deputies he was allowed to photograph them at which time the deputies approached him.

The lawsuit claims, Complainant Nee asked the deputies if he was being detained. The deputies responded saying that he was being detained. The lawsuit alleges the deputies handcuffed him, searched him and his possessions without his consent and placed him in the rear seat of a patrol vehicle.

The lawsuit further claims, Complainant Nee was interrogated for 20 to 30 minutes and subjected to rough physical treatment, verbal abuse and intense questioning. Complainant Nee claimed he was released without a citation or being charged with a crime.

## SUBJECT INTERVIEW'S

### Subject Deputy Pae[redacted]

On December 12, 2012, Subject Paez was interviewed by IAB Sergeant David Ladjevic and Sergeant Carlos Flores. The interview was conducted at Internal Affairs Bureau and was digitally audio recorded. Subject Paez was represented by Attorney Audra Call from Green and Shinee.

During the interview Subject Paez said, on the date of February 2, 2012, he was on loan to Transit Services Bureau and was assigned to patrol the Metro Red Line.

> **IAB NOTE:** Subject Paez is assigned to GET (Gang Enforcement Team) and was a [redacted] assigned to Transit Services Bureau. Subject Paez was at Transit Services Bureau for approximately [redacted] when this incident occurred.

Subject Paez said he was standing at the entrance of the Hollywood and Highland Passenger Station with his partner, Deputy [redacted] Subject Paez said while at the front entrance of the passenger station they were talking with two teenage females.

Subject Paez said while talking to the females he heard Deputy [redacted] say, "Hey he is taking pictures, hey stop taking pictures."

> **IAB NOTE:** Subject Paez said he did not remember the exact words Deputy [redacted] used but it drew his attention to Complainant Nee.

Subject Paez saw Complainant Nee walking toward them taking pictures when he asked him to stop. Complainant Nee continued taking pictures when Subject Paez told him he was not allowed to take photographs and asked him if he knew he was photographing minors. Subject Paez said the first thing he thought was, "Is this guy a sex offender or a pedophile?"

Subject Paez said he was concerned about the welfare of the females and began to question Complainant Nee. Subject Paez said Complainant Nee began acting suspicious when he decided to approach him, at which time Complainant Nee asked if he was being detained. Subject Paez responded, "Yes, you are being detained." Subject Paez asked Complainant Nee for his identification. Subject Paez said Complainant Nee refused to show his identification. Upon contacting the Complainant Subject Paez smelled the odor of alcohol and marijuana emitting from his breath.

Subject Paez said once he detained Complainant Nee he placed Complainant Nee's backpack and camera on the sidewalk and searched him. Subject Paez said he searched the complainant for narcotics and then handcuffed him.

> **IAB NOTE:** The camcorder was attached to a string hanging from the Complainant's neck. Subject Paez did not know the item hanging from the Complainant's neck was a camcorder until he was shown the video on You Tube. **See Exhibit C.**

Subject Paez said Complainant Nee began to get loud, trying to get other people's attention, trying to incite a riot while continually turning toward him. Subject Paez said he handcuffed the Complainant trying to de-escalate the situation. Subject Paez said he did not want to use force on the Complainant, he just wanted to identify the Complainant and figure out why he was doing what he was doing.

**IAB NOTE:** Subject Paez said the handcuffing was completed without resistance.

During the interview Subject Paez was asked if he knew of any regulations regarding photographing or videotaping the exteriors of the passenger station. Subject Paez stated he was [redacted] and was not familiar with any such policies. Subject Paez continued saying that prior to this incident a sergeant briefed that somebody was going around taking photographs of the Metro.

**IAB NOTE:** The "Metro" is the subway system throughout Los Angeles County. Subject Paez could not recall the name of the Sergeant who briefed the information.

Subject Paez said the sergeant told them to be on high alert and be very cautious of suspicious activity. Subject Paez said due to terrorist threats the train would be one of the top places a terrorist attack could happen. Subject Paez said based on the briefing coupled with the Complainant taking photographs of the juveniles and Complainant Nee's behavior he believed handcuffing him and detaining him in the radio car would prevent other people from trying to assist him.

During the interview Subject Paez was asked if he believed he had the lawful right too detain the Complainant based on the circumstances. Subject Paez said, "Yes." Subject Paez was also asked if he explained the full extent of the detention to the Complainant while he was in the backseat of the radio car. Subject Paez said, "Yes, prior to releasing him."

Subject Paez said he explained the reasons for the detention were the odor of alcohol and marijuana emitting from Complainant Nee's breath which gave him the right to conduct a search for narcotics. Subject Paez continued saying he also detained the Complainant for photographing minors and his behavior.

**IAB NOTE:** Subject Paez described the Complainants behavior as "suspicious" based on his refusal to show identification and attempting to get the attention of citizens to help him.

During the interview Subject Paez was asked if the photographing of the passenger station was addressed. Subject Paez said he believes it was but he could not recall if he explained it to the Complainant at the time of the detention.

Subject Paez said after detaining the Complainant, he placed the Complainant's camera bag on the ground. During the interview he was asked where on the ground he placed the camera bag. Subject Paez said he did not know exactly where he placed the camera bag but said it was within his view. Subject Paez said after the Complainant

was seated in the rear seat of the radio car he retrieved the bag from where he left it.

> **IAB NOTE:** The distance between the area of first contact and the radio car parked at the curb line is approximately 18 feet. **See Exhibit B.**

During the interview Subject Paez was asked if he was the person who cleared the call on the MDT. Subject Paez said he was the one who cleared the call and he cleared it as, contacting Shawn Nee MW/Adult, [redacted] contacted re: 647(F) PC warned and advised un-coop. Subject Paez was asked how long the detention lasted. Subject Paez replied he did not recall.

> **IAB NOTE:** Subject Paez said he attempted to obtain a Blue Check fingerprint device from other units assigned to Transit Services Bureau. Subject Paez said he did not receive acknowledgment from any other units after waiting for an extended period of time.

Subject Paez determined the Complainant was not impaired and was able to care for himself. Subject Paez said the Complainant was not positively identified and was released without further incident.

Subject Paez said the Complainant retrieved his camera bag at the end of the detention and had a "sarcastic" attitude toward him and his partner.

Subject Paez said once the Complainant retrieved his bag and began to walk away he said, "Have a good day."

> **IAB NOTE:** On the video of the incident, after retrieving and inspecting his bag the Complainant can be heard saying "Have a good day, have a wonderful day" as he walked away. **See Exhibit C.**

**SUBJECT DEPUTY [redacted]**

On December 12, 2012, Subject [redacted] was interviewed by IAB Sergeant David Ladjevic and Sergeant Carlos Flores. The interview was conducted at Internal Affairs Bureau and was digitally audio recorded. Subject [redacted] was represented by Attorney Audra Call from Green and Shinee.

During the interview Subject [redacted] said, he is assigned to COPS Bureau and was on a one week C.A.R.P. at Transit Services Bureau on February 2, 2012.

**IAB NOTE:** C.A.R.P is an acronym for Cadre of Administrative Reserve Personnel.

Subject [redacted] said he was assigned to the Metro Red Line and was at the entrance of the Hollywood and Highland Passenger Station when he noticed Complainant Nee photographing him and his partner.

**IAB NOTE:** The entrance to the Hollywood and Highland Passenger Station is located at street level on Hollywood Boulevard. **See Exhibit B.**

Subject [redacted] said his partner, Subject Paez, were talking to some young females about the Explorer Program and Custody Assistant Program and how to get hired when he saw the Complainant stop directly in front of him and begin to photograph him. Subject [redacted] said he immediately told the Complainant to stop taking photographs of him. Subject [redacted] said the Complainant answered back, "Why not? I can do that."
Subject [redacted] said he again told the Complainant to stop taking pictures of him. Subject [redacted] said he thought the Complainant was taking pictures of the entrance to the passenger station and it raised a "red flag."

**IAB NOTE:** Due to previous briefings regarding terrorist threats to the transit system Subject [redacted] was aware that persons taking photographs was a means used to plan terrorist activity.

Subject [redacted] said as he was talking to the Complainant he heard his partner tell the Complainant he couldn't take pictures of the minors without their parent's consent. Subject [redacted] said he heard the Complainant say, "Yes I can" at which time his partner contacted the Complainant. Subject [redacted] said Subject Paez asked the Complainant for his identification and the Complainant said he did not have identification and he didn't have to show identification. Subject [redacted] said at this time the consensual encounter turned into a detention.

**IAB NOTE:** Subject [redacted] said the Complainant did not comply with any of his partner's request.

During the interview Deputy [redacted] was asked if he knew of any polices or regulations for photographing the transit system or the passenger stations. Subject [redacted] said during briefings he was informed to be aware of persons taking photographs of the trains, tunnels and entrances to the Metro System and to contact the photographer to

ascertain if they have permission from the MTA to photograph.

> **IAB NOTE:** Subject [redacted] said the Complainant was wearing a backpack and he became more suspicious due to the Complainant's hostile behavior.

Subject [redacted] said his partner searched and handcuffed the Complainant prior to both of them escorting him to the radio car. Subject [redacted] said the Complainant was hostile and uncooperative. Subject [redacted] said he asked the Complainant where he was from and the Complainant said he was from "Boston." Subject [redacted] said due to the Complainant not being from the area a "red flag" popped up and made him more suspicious of the Complainant and his intentions.

> **IAB NOTE:** The Complainant was yelling and attempting to get people to videotape or photograph his detention. **See Exhibit C.**

Subject [redacted] said he asked his partner if he wanted a Blue Check Device in order to positively identify the Complainant. Subject Paez requested a Blue Check Device via L-Tac and after an extended period of time he received no response.

> **IAB NOTE:** Subject [redacted] believes the time of the detention did not exceed 20 minutes.

Subject [redacted] said once they did not get a response for their request for a Blue Check Device he asked Subject Paez if he was comfortable releasing the Complainant without a positive identification. Subject Paez said, yes and released the Complainant without further incident.

> **IAB NOTE**: Subject [redacted] believed a California Identification returned via the MDT however he did not see it at the time of the Complainants release.

Subject [redacted] said he has never detained anyone for photographing the transit system prior to this incident. Subject [redacted] further stated he has had tourists in the past ask if they could photograph him and he would oblige them and stand next to a radio car. Subject [redacted] said he would not stand in front of the passenger station for the photographs.